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UNITHER PHARMA, INC., THE BOARD OF TRUSTEES OF
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Attorneys Defendants and Counter-Claimants
THE DAILY WELLNESS COMPANY and
ADVANCED NUTRITIONAL BIOSYSTEMS, LLC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITHER PHARMA, INC. ET AL.

Plaintiffs and Counter-Defendants,

v.

THE DAILY WELLNESS COMPANY ET AL.

Defendants and Counter-Claimants.

Case No. C02-05284 JW and
Related Case No. C03-0415 JW

**STIPULATION & ~~PROPOSED~~ ORDER
OF DISMISSAL WITH PREJUDICE**

Pursuant to agreement and stipulation between Plaintiffs and Counter-Defendants Unither Pharma, Inc., The Board of Trustees of The Leland Stanford Junior University, and New York Medical College, and Defendants and Counter-Claimants The Daily Wellness Company and Advanced Nutritional Biosystems, LLC, and further pursuant to Federal Rule of Civil Procedure 41(a) and 41(c), the above consolidated actions, Case Nos. C02-05284 JW and C03-0415 JW, in their entirety, including all claims in the complaint, and any cross-action or counterclaims filed therein, are hereby dismissed with prejudice. The parties shall bear their own costs and attorneys' fees.

Dated: October 13, 2006

FISH & RICHARDSON P.C.

By: /s/ Karen I. Boyd
Karen I. Boyd

Attorneys for Plaintiffs
UNITHER PHARMA, INC., THE BOARD OF
TRUSTEES OF THE LELAND STANFORD
JUNIOR UNIVERSITY AND NEW YORK
MEDICAL COLLEGE

Dated: October 13, 2006


PRESTON GATES & ELLIS LLP

By: /s/ Anup Tikku
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Attorneys for Defendant and Counter-Claimants
THE DAILY WELLNESS COMPANY and
ADVANCED NUTRITIONAL BIOSYSTEMS,
LLC.

1 IT IS SO ORDERED.
2
3

4 Dated: 10/17/2006


The Hon. James Ware
United States District Judge

DECLARATION OF CONSENT

I, Limin Zheng, hereby attest:

1. Concurrence in the filing of the following document has been obtained from each of the other signatories, which shall serve in lieu of their signatures on the document:

STIPULATION & ~~PROPOSED~~ ORDER OF DISMISSAL WITH PREJUDICE

2. I shall maintain records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party until one year after final resolution of the action pursuant to General Order 45 of the United States District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed in Redwood City, California on October 13, 2006.

Dated: October 13, 2006

FISH & RICHARDSON P.C.

By: /s/ Limin Zheng

Limin Zheng

Attorneys for Plaintiffs

UNITHER PHARMA, INC., THE BOARD OF
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